

## AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, further providing for general regulations  
4 concerning criminal history records; and providing for an  
5 expungement fee.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 9122(b) and (c) of Title 18 of the  
9 Pennsylvania Consolidated Statutes are amended and the section  
10 is amended by adding a subsection to read:

11 § 9122. Expungement.

12 \* \* \*

13 (b) Generally.--Criminal history record information may be  
14 expunged when:

15 (1) An individual who is the subject of the information  
16 reaches 70 years of age and has been free of arrest or  
17 prosecution for ten years following final release from  
18 confinement or supervision.

19 (2) An individual who is the subject of the information

1 has been dead for three years.

2 (3) (i) An individual who is the subject of the  
3 information petitions the court for the expungement of a  
4 summary offense and has been free of arrest or  
5 prosecution for five years following the conviction for  
6 that offense.

7 (ii) Expungement under this paragraph shall only be  
8 permitted for a conviction of a summary offense.

9 (4) (i) An individual who is the subject of the  
10 information petitions the court for expungement of a  
11 criminal history record pertaining to a conviction for a  
12 misdemeanor of the third degree or an unclassified  
13 misdemeanor punishable by imprisonment for not more than  
14 one year, and the individual has been free of arrest or  
15 prosecution following final release from confinement or  
16 supervision for seven years. This paragraph shall not  
17 apply to an individual who has been convicted at any time  
18 of:

19 (A) An offense punishable by imprisonment of  
20 more than two years.

21 (B) Four or more offenses punishable by  
22 imprisonment of one or more years.

23 (C) A violation of section 2701 (relating to  
24 simple assault).

25 (D) An offense classified as a misdemeanor of  
26 the second degree committed when the individual was  
27 at least 25 years of age.

28 (E) An offense under section 3129 (relating to  
29 sexual intercourse with animal).

30 (F) An offense under Ch. 49 (relating to

1 falsification and intimidation).

2 (G) An offense under Ch. 51 (relating to  
3 obstructing governmental operations).

4 (H) An offense requiring registration under 42  
5 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
6 sexual offenders).

7 (ii) Expungement shall be at the discretion of the  
8 court. In considering whether to grant the petition for  
9 expungement, the court shall consider all relevant  
10 factors, such as the following:

11 (A) Any reason the Commonwealth may give for  
12 wishing to retain the records.

13 (B) The petitioner's age, criminal record and  
14 employment history.

15 (C) The length of time that has elapsed between  
16 the arrest and the petition to expunge.

17 (D) The specific adverse consequences the  
18 petitioner may endure if expunction is denied.

19 \* \* \*

20 (c) Maintenance of certain information required or  
21 authorized.--Notwithstanding any other provision of this  
22 chapter, the following shall apply:

23 (1) The prosecuting attorney and the central repository  
24 shall, and the court may, maintain a list of the names and  
25 other criminal history record information of persons whose  
26 records are required by law or court rule to be expunged  
27 where the individual has successfully completed the  
28 conditions of any pretrial or post-trial diversion or  
29 probation program or where the court has ordered expungement  
30 under [this section] subsection (b) (1), (2) or (3). Such

1 information shall be used solely for the purposes of  
2 determining subsequent eligibility for such programs,  
3 identifying persons in criminal investigations or determining  
4 the grading of subsequent offenses. Such information shall be  
5 made available to any court or law enforcement agency upon  
6 request.

7 (2) (i) The prosecuting attorney and the central  
8 repository shall, and the court may, maintain a criminal  
9 history record including the name, identifying  
10 information, fingerprints and offense record of a person  
11 whose records are expunged under subsection (b) (4). The  
12 expunged information may be used in consideration for a  
13 pardon and shall be available and admissible to the same  
14 extent as a record of the conviction would be in a  
15 criminal or juvenile delinquency investigation or  
16 proceeding, such as the following:

17 (A) Grading a subsequent offense which is  
18 dependent upon a prior conviction.

19 (B) Sentencing for a subsequent offense if a  
20 prior conviction might result in a prior record score  
21 under 204 Pa. Code Ch. 303 (relating to sentencing  
22 guidelines).

23 (C) Identifying a person in a criminal  
24 investigation.

25 (D) Eligibility for a pretrial or posttrial  
26 diversion or probation program.

27 (E) Bail determination and other pretrial  
28 hearings and proceedings.

29 (F) Pretrial, trial and posttrial hearings and  
30 proceedings.

1                   (G) Sentencing and presentence investigations.

2                   (H) Postconviction relief proceedings.

3                   (ii) Information under this subsection must be made  
4                   available to a court or law enforcement agency upon  
5                   request.

6                   \* \* \*

7                   (g) Disclosure prohibited.--Except as provided under  
8                   subsection (c), an individual, entity or public or private  
9                   agency may not request or require disclosure from an individual  
10                   any information concerning the person's criminal history record  
11                   that has been expunged under this section or pursuant to any  
12                   law, court order or rule of criminal or juvenile procedure.

13                   Section 2. Title 42 is amended by adding a section to read:  
14                   § 1725.7. Expungement fee.

15                   (a) Requirement.--In addition to any other fee authorized by  
16                   law, a person who is filing a petition for expungement under 18  
17                   Pa.C.S. § 9122 (relating to expungement) or 9122.1 (relating to  
18                   order for limited access) shall pay a fee of \$100 to the clerk  
19                   of courts at the time the petition is filed.

20                   (b) Distribution.--The clerk of courts shall ensure that the  
21                   fee is distributed as follows:

22                   (1) One-third to the Administrative Office of  
23                   Pennsylvania Courts.

24                   (2) One-third to the Pennsylvania State Police.

25                   (3) One-third to the district attorney of the county.

26                   Section 3. This act shall take effect in 60 days.

